

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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: **ORDER SUMMARIZING STATUS**
: **CONFERENCE AND SETTING**
IN RE WORLD TRADE CENTER DISASTER : **NEXT CONFERENCE**
SITE LITIGATION :
: 21 MC 100 (AKH)
: **USDC SDNY**
: **DOCUMENT**
: **ELECTRONICALLY FILED**
: **DOC #:**
: **DATE FILED:** 12/22/11
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ALVIN K. HELLERSTEIN, U.S.D.J.:

This order summarizes the status conference held December 14, 2011.

1. Of the 85 Plaintiffs who chose not to settle their cases, as of December 14, 2011, 35 cases remain. (The others stipulated to the voluntary dismissals of their cases, presumably to enter the renewed Zadroga Act Victim Compensation Fund.)
 - a. Of the cases that were chosen to move to trial, ten remain—three chosen by Plaintiffs, three chosen by Defendants, and four chosen by the Court. Seven of these cases are in Tier IV; the remaining three are in Tier I.
 - b. Discovery meanwhile is proceeding for these ten cases, via depositions of the Plaintiffs and their doctors. As of December 14, 2011, eight of the ten Plaintiffs have been deposed. The remaining two are to be deposed by the end of January.
 - c. Rule 35, Fed. R.Civ.P., examinations of the Plaintiffs are being scheduled, and should begin shortly.
2. The parties had submitted to me a letter concerning a discovery dispute with respect to these ten cases, relating to the number of depositions sought to be taken. In light of the short time remaining to enter the Victim Compensation Fund and the


uncertainty as to which cases will remain, the issue is to be deferred, and narrowed by further conversations among the parties. The ten cases also may be reduced.

3. As to suits filed against the City after the April 12, 2010 eligibility date provided by the Settlement Process Agreement, there is a discrepancy in the number of cases outstanding. Plaintiffs' counsel believes 46 active cases remain; Defendants' counsel believes 61 cases remain. The two sides should compare lists to determine an accurate number, and enlist the assistance of the Special Masters if they cannot fix the numbers.
 - a. In these cases, all Plaintiffs have populated the TCDI database with answers to interrogatories; Defendants will complete population of the database by Friday, December 16, 2011. Discovery on these cases, according to Plaintiffs' counsel, is running approximately three months behind discovery in the pre-April 12 "opt-out" cases.
 - b. The majority of these remaining "post-April 12" cases fall in the Tier IV category.
4. The next status conference shall be held January 9, 2012, at 10:00am. One item on the agenda is to discuss a fixed trial date.

SO ORDERED.

Dated:

December 22 2011
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge